INSOLVENCY AND BANKRUPTCY CODE, 2016: JUDICIAL ANALYSIS TO CHECK ADJUDICATING AUTHORITY ROLE IN CORPORATE INSOLVENCY PROCESS

SHORT SYNOPSIS

Submitted in partial fulfillment of the requirement of the degree of

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by

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I hereby declare that the short synopsis entitled "***Insolvency and Bankruptcy Code, 2016: Judicial Analysis to Check Adjudicating Authority Role in Corporate Insolvency Process***" being submitted in partial fulfillment of the requirement for the degree of Doctor of Philosophy in the **School of Law** of Manav Rachna University, Faridabad during the academic year **2024-2025.**

It is the work that is expected to be carried out under the supervision of **Dr. Arushi Mehta.**

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This is to certify that, the short synopsis entitled "***Insolvency and Bankruptcy Code, 2016: Judicial Analysis to Check Adjudicating Authority Role in Corporate Insolvency Process***" is an original piece of work done by research scholar **Ms. Surabhi Sharma** under the supervision of **Dr. Arushi Mehta** for the degree of Doctor of Philosophy in the **School of Law** of Manav Rachna University, Faridabad during the academic year 2024-2025.

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ABSTRACT

Insolvency and Bankruptcy Code 2016 (IBC) brought a revolutionary change in Indian insolvency laws. This change was brought to limit the problem of delayed in recoveries and piles of NPAs. The outcomes of the IBC are remarkable and noteworthy. In the short span of time, IBC proved as the better faciliatory for creditors which in turn proof as a boon for the business. IBC brought a timeline for insolvency procedure for timely resolution which in result gives timely recovery.

But road is not that rosy, recent reports and various news published that 65% of the insolvency cases are decided beyond the time limit. An average of 716 days is being taken for full procedure.[1] In 2023, State Bank of India recommended that there should be measuring time at each stage of insolvency procedure.[2] Overall insolvency law provides 330 days but practically it is taking more than that. There is need to calculate the timelines at different stages with respect to Adjudicating Authorities, Committee of Creditors, Resolution Professional etc., to track the reasoning of delays.

Researcher in her work would like to investigate the loop holes in the implementation of IBC. Loop holes with respect to delays and powers at the end of adjudicating authority will be addressed through critical study. Research will refer the decided cases of all the NCLTs from 2021 till 2024 on various parameters. Researcher will further analyze the protection of creditors and other stakeholders under the laws through these decided case laws. Hon'ble Supreme Court in various cases forced on the important concept that the IBC is a "time-bound process" by nature.[3] This research will try to analyse the role of adjudicating authority

[1] PTI. (2024) 'On average, resolution of cases under IBC took 716 days at NCLT in 2023-24: Govt', *The Economic Times*, 6 August [online]. Available at: https://economictimes.indiatimes.com/news/india/on-average-resolution-of-cases-under-ibc-took-716-days-at-nclt-in-2023-24-govt/articleshow/112325598.cms?from=mdr (Accessed: 21 October 2024)

[2] Srivats, KR. (2023) 'Time matters. SBI MD Tewari recommends measuring time for each IBC process bucket', *The Hindu*, 17 September [online]. Available at: https://www.thehindubusinessline.com/economy/sbi-md-tewari-recommends-measuring-time-for-each-ibc-process-bucket/article67318942.ece (Accessed: 03 October 2024)

[3] 'State Tax Officer v. Rainbow Papers Ltd.' (2023) Supreme Court, Civil Appeal No. 1661 of 2020, IBBI. Available at: https://ibbi.gov.in/uploads/order/d84016926e583df1b24999a8be04f274.pdf (Accessed: 03 November 2024)

in aiding the basic principle of IBC and articulate the solution to uphold the fundamental principle behind the IBC.
Keywords: Insolvency and Bankruptcy Code, Adjudicating Authority, delay, time-bound, creditors.

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1. INTRODUCTION

Insolvency law is the backbone and one of the pillars of commercial laws which plays a crucial role in developing the economy of the country. Specific to emerging economy, this law paves the way for the creditors to invest more. It helps to create a confident ecosystem of the market. For any idea to implement, first thing which is required is money. Difficulty arises when investment is not available easily or it's a lengthy option if go through the banks. Country with strong insolvency laws, has better investment as creditors are willing to take risk as they are sure that they will be able to receive their money back either from the debtor or through laws.[4]

Our Hon'ble Prime Minister is encouraging the young entrepreneur by various entrepreneur policy and campaigns like Make in India, Start-up India. PM Modi has a vision of Indianisation, where he wants to form India a self-sufficient and economically viable country. But such vision is being impeded by an environment which takes longest time and highest cost by world standard to repay dues on debts. This delay in recovery was repeatedly highlighted at various platforms. World Bank used to create report annually based on ease of doing business where numerous parameters were taken into consideration. One of the parameters focus on the recovery rate of the countries and India ranked 130th in 2016. This is a challenging preposition for the entrepreneurs to establish themselves in such scenario, as it is difficult for the creditors to trust the person as well as the laws which are there to protect them. Further Reserve Bank of India in their report of 2014-15 with respect to non-performing assets, highlights the miserable stage for the banks. Same picture was depicted in Economic Survey in 2015-16. To address these issues, India brought lots of business and economic reforms like GST in tax, Insolvency and Bankruptcy Code (IBC), 2016 for recovery cases. These were the game-charger for the economy and a major over-due. IBC since its inception, which is 8 years now, proved as a boon in various aspects.

The difference between insolvency and bankruptcy is comprehensibly mentioned under the

[4] Batra, S. (2017) *Corporate Insolvency: Law and Practice*. Lucknow: EBC, Lucknow.

IBC. The former is a state of non-availability of funds to pay the liabilities during the running of business whereas the latter is a legal step taken after the person or entity is declared insolvent in view of the business.[5] Once the business is set-up, it has two consequences. One that it will blossom and brings good fortune for the promoters and second is that business may failed. Once the business is failed, the first impact will fall on the creditors. Consequently, proper system should be setup for such failures too by keeping all creditors and stakeholders in mind. The IBC distinguish between the process of insolvency and bankruptcy which is transparent and objective. It should not be considered as equal to the earlier laws where delays were inevitable.

The journey of the Indian insolvency reforms has been painfully slow and incremental. Before IBC, the category of creditors, except few, was mostly in the form of secured creditors and unsecured creditors. Secured creditors are the one who are secured on the property of the debtor against their debt, hence they were kept upper in the hierarchy of payment debt against others. This condition of security must be respected even in the case of winding-up therefore they are preferred. [6] Under the secured creditors, Banks were given the preference. Essentially bank is not considering as resourceful lender in the market but protection is maximum in the earlier laws. This concern has been taken in due consideration by IBC which gives the power in the hand of various creditors. IBC has adopted a good balance in addressing debtor and creditor negotiation. IBC against the earlier laws, brought the difference between 'financial debt' and 'operational debt'. This distinction is important as it enlarges the scope of creditors and hence their protection which makes IBC a creditor-friendly code which is a shift from earlier debtor-in- control model.

Generally, if there is default in the payment of dept, there are two recourses. Either the empire stays with the debtor and simultaneously the negotiation take place with the creditors or the empire is transferred to the creditors and after taking their share it is return to the

[5] Ernst and Young (2016) *Interpreting the Code: Corporate Insolvency in India*. Available at: https://www.insolindia.com/uploads_insol/resources/files/interpreting-the-code-corporate-insolvency-in-india-1025.pdf (Accessed: 03 November 2024)

[6] Bankruptcy Law Reforms Committee 2015. *The Report of the Bankruptcy Law Reforms Committee Volume I: Rationale and Design* [online]. Available from: https://ibbi.gov.in/BLRCReportVol1_04112015.pdf (Accessed: 30 October 2024)

debtor. Before IBC, India was following the model of debtor control. One of the drawbacks with this model is that if debtor is not willing and laws are complex than debtor use this as their weapon and make delays in the payment. And this results in collateral depreciation, which in turn left nothing much for the creditors. India's recovery rates are the lowest in the world. Hence introducing the creditor friendly code after realizing from the previous experiences is a dynamic step.[7]

Further our financial sector is badly hit by increasing number of Non-Performing Asset (NPA) with banks. This was highlighted in the Narasimham Committee Report on bank reforms in 1998 also where it was recommended to have "zero NPAs". In this scenario, a continuous evaluation required to keep track of the assets. Reserve Bank of India (RBI) conducts Asset Quality Review (AQR) as a part of annual financial inspection where they inspect the balance sheet of banks annually. Since 2014, RBI has cracked down significantly on the bad loans accumulated with the banks through AQR. Bankers find it difficult to extract money from big companies as it takes years in Debt Recovery Tribunal to finish the case.

One of the persistent problem with the earlier laws was that there were various laws to address the same issue for different entities like for individual there was Presidency Towns Insolvency Act, 1909 and Provincial Insolvency Act, 1920, for companies there was Sick Industrial Companies (Special Provisions) Act, 1985 and the Companies Act,2013 , for bank the Recovery of Debt Due to Banks and Financial Institutions Act, 1993 and the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. This lead towards the involvement of various platforms like High Court, Company Law Board (now called National Company Law Tribunal), Board for Industrial and Financial Reconstruction and Debt Recovery Tribunal at different stages of the proceedings which result in delays and complexity in the process.[8] To eradicate issues of

[7] Bankruptcy Law Reforms Committee 2015. *The Report of the Bankruptcy Law Reforms Committee Volume I: Rationale and Design* [online]. Available from: https://ibbi.gov.in/BLRCReportVol1_04112015.pdf (Accessed: 30 October 2024)

[8] Bankruptcy Law Reforms Committee 2015. The Report of the Bankruptcy Law Reforms Committee Volume I: Rationale and Design [online]. Available from: https://ibbi.gov.in/BLRCReportVol1_04112015.pdf (Accessed: 30 October 2024)

long lasting proceedings of insolvency and to simplify the procedure, the IBC is enacted on 28th May, 2016 which has consolidated the entire laws on insolvency and bankruptcy in one code by repealing or amending the existing provisions of Acts.

The growing literature on law and finance suggests that the development of capital markets is promoted by greater investor protection, while more developed credit markets exist in countries with greater creditor protection.[9] One of the essential components of a country's creditor rights is its insolvency framework, which together with assistance of judiciary impact the extent to which commercial distress is resolved using formal bankruptcy proceedings.

There are various options available once the company is declared insolvent. It can be liquidation, out-of-court settlement, debt restructuring, negotiations, or any hybrid of these. Previous laws were debtor friendly hence the decision to pave the way after insolvency is rest with debtors. This generally affect the interest of the creditors. As we review the BLRC debate with respect to insolvency they strongly suggested after various evaluation that only the creditors committee have the power to make such decisions. Committee of Creditors (CoC) is composed of all financial creditors of the company, where they have power to vote on major decisions which is in proportion to the debt they have given to the company. As per earlier laws, the pillars of the India i.e. Legislature, executive and judiciary were called to take this decision for the entities. But this has been completely restricted by the Committee. Decision on the well-being and future of a company is a business decision hence the creditors should have the power to decide. BLRC was very firm about the fundamental principles behind the enactment of IBC and speedy disposal of insolvency cases with transparency is one of them.

Model behind the creditor- friendly code unlike debtor oriented is UK Insolvency Act, 1986 and origins of most of the bankruptcy laws are English laws with the idea to enact the uniform laws on the subject of bankruptcies. But it is still in issue as whether the new code is self-contained. Within the span of eight years, there are lots of issues which are coming

[9] Levine, R. (2014) *Finance and Growth: Theory and Evidence*. North-Holland: Elsevier Publishers

forward. These issues are pertaining to delays, NCLT roles, Guarantors, Committee of Creditors, different creditors like Homebuyers, conflict in interpretation of laws and so on. A thorough study needs to be conducted as how well the creditors are protected as they are one of the main stakeholders and how other stakeholders are appreciated and how well the adjudicating authority is performing as per the role listed under the IBC.

2. LITERATURE REVIEW

1. Neeti Shikha and Urvashi Shahi[10] (2021) studies the reasons for delayed in insolvency cases which are being admitted under the IBC. They have conducted an empirical study about delays in the corporate insolvency process due to Adjudicatory Authority. Authors are aiming to investigate the 18 stages of the corporate insolvency process where some may or may not include adjudicating authority. Further authors are exploring the relation between the size of the debt and delays. Their research reveals that delays are not only due to state agencies but also involve market participants.

2. Aparna Ravi[11] (2015) author analyses 45 cases of insolvency to understand the reasons for delays. These cases were before the implementation of Insolvency and Bankruptcy Code, 2016. Author analyses that more than 10 years are taken by High Court to decide the insolvency cases. Author classifies the delays as conflicts of multiple forums and the work of the adjudicators in resolving insolvency and bankruptcy. Author suggested some amendments in the policy for speedy recovery.

3. Sreyan Chatterjee, Gausia Shaikh, Bhargavi Zaveri[12] (2018) in their research paper conducted an empirical study by referring to decided cases of NCLT in the first 6 months from the implementation of the IBC. Authors' analyses the cases from the perspective of impact on economy and performance of adjudicating authority.

4. Navin K Pahwa[13] (2018) in his research highlights the shortcomings of the IBC. He examines the various disputed aspect of the law like guarantor's role, limitation period,

[10] Neeti, S. and Shahi, U. (2021). *Assessment of Corporate Insolvency and Resolution Timeline* [online]. RP-01/2021. Available from: https://ibbi.gov.in/uploads/publication/2021-02-12-154823-p3xwo-8b78d9548a60a756e4c71d49368def03.pdf (Accessed 24 October 2024)

[11] Ravi, A. (2015) *The Indian Insolvency Regime in Practice-An Analysis of Insolvency and Debt Recovery Proceedings* [online]. WP-2015-027. Available from: http://www.igidr.ac.in/pdf/publication/WP-2015-027.pdf (Accessed 24 October 2024)

[12] Chatterjee, S., Shaikh, G., & Zaveri, B. (2018). *An Empirical Analysis of the Early Days of the Insolvency and Bankruptcy Code, 2016*. National Law School of India Review, 30(2), 89–110. Available from: https://www.jstor.org/stable/26743938 (Accessed 30 August 2024)

[13] Pahwa, N. K. (2018). *Corporate Insolvency: Its Operations and Emerging Problems*. National Law School of India Review, 30(2), 111–118. Available from: https://www.jstor.org/stable/26743939 (Accessed 30 August 2024)

promoter's eligibility etc. Author suggests that with the intervention of judiciary and legislative body, IBC can be reformed and will perform better in blooming the economy of India.

5. Sunil Mehta[14] (2024) in his research attributes to the various stakeholder involved in the IBC. Author has highlighted their work and power as given in the legislation. Authors confirmed that stakeholders play a crucial role and by fulfilling their roles we can have efficient and transparent ecosystem of insolvency. He relates insolvency law performance on active participation of various stakeholders.

6. Atul Kumar Goel[15] (2024) has critically analyses the Corporate Insolvency Resolution Process. Author has tested the impact of IBC as he stated that IBC main principle is to balance stakeholder's interest with reviving the corporate house by way of timely resolutions. Author has checked the impact in three aspects. Firstly, with respect to debtor-creditor relationship. Secondly, with respect to resolution of accounts. And lastly, impact on realization of value to the financial creditors. Author articulates that delays and complexities can hinder the effective implementation of IBC. India can certify relevant case management if timelines are restructured like Singapore, option like pre-insolvency adopted from the UK, and recruiting skilled professionals.

7. Bahram N. Vakil and Suharsh Sinha[16] (2022) authors have discussed about the position of NCLT. Exclusive jurisdiction has been given to the NCLT under the IBC for corporate insolvency. And Civil Court jurisdiction has been completely barred under IBC. Authors have raised the concern regarding the residuary powers. Different NCLTs

[14] Mehta, S. (2024). A Reflection on the Role & Effectiveness of Stakeholders under the IBC Framework in India. *IBC- Eight Years* [online], October, Page No. 1-14.
Available from: https://ibbi.gov.in/uploads/publication/97e205b172b25e7016a8edf94b9be938.pdf (Accessed 04 November 2024)
[15] Goel, A. (2024). Streamlining India's Cirp for A Win-Win Outcome. *IBC- Eight Years* [online], October, Page No. 15-20.
Available from: https://ibbi.gov.in/uploads/publication/97e205b172b25e7016a8edf94b9be938.pdf (Accessed 04 November 2024)
[16] Vakil, B and Sinha, S. (2022). To Adjudicate or Not Adjudicate: Conflict of Jurisdiction between NCLT and Civil Courts [online], 22 June.
Available from: https://www.azbpartners.com/bank/to-adjudicate-or-not-adjudicate-conflict-of-jurisdiction-between-nclt-and-civil-courts/ (Accessed 31 August 2024)

have different observations where few considers that NCLT should have the jurisdiction in case of residuary subjects. But other have observed that it can be taken care by civil or commercial courts. To address this issue, authors have relied on other jurisdictions like United Kingdom and the United States of America for amicable and better solution.

8. Pramod Rao[17] (2016) in his article focused on the different institutions which are the key pillars for the effective implementation of IBC. Authors has critically analysis the advantages, disadvantages, infrastructure, challenges and other attributes for the smooth functioning of the code. While focusing on the role of NCLT and DRT, author is of the view that both institutions are already burdened through other legislations. Therefore, he suggested that there should be a Judicial Impact Assessment for all the NCLTs and DRTs which will calculate the cost and requirement of infrastructure. Author believes that these institute can work in true spirit only if the true impact assessment is analyzed and same is implemented.

9. Bankruptcy Law Reform Committee Report[18] (2015) has submitted its report in 2015 which also laid down the detailed provisions of this unified code and scraped the earlier laws. Dr. T K Vishwanathan is the chairperson of this committee. In the report the respective committee has done thorough research of US and UK legislation of insolvency. US has a debtor friendly resolution process whereas UK legislation is creditor- friendly. Committee has viewed both perspectives and has chosen the best for India's economy based on the infrastructure and issues. Committee has detailed analyses of each scenario because of which the four new institutions are formed for better and feasible implementation. From the history and till the expected future, everything is beautifully captured in the report.

[17] Rao, P. (2016). Critique of the Insolvency & Bankruptcy Code, 2016. *National Law School Business Law Review* [online]. Vol. 2, Iss. 1, Article 4. Available from: https://repository.nls.ac.in/nlsblr/vol2/iss1/4 (accessed 29 October 2024)

[18] Bankruptcy Law Reforms Committee 2015. *The Report of the Bankruptcy Law Reforms Committee Volume I: Rationale and Design* [online]. Available from: https://ibbi.gov.in/BLRCReportVol1_04112015.pdf (Accessed: 30 October 2024)

10. C. Scott Pryor and Risham Garg[19] (2020) in their research conducted a empirical research by interviewing Resolution professionals, officials of IBBI and representatives of IIPA with respect to implementation of the law. Their study finds that major power given to Financial Creditors in the form of committee of creditors portrays as an inequality among the various creditors. Further they objected, based on their study, that conferred power of secured creditors are not justified in the corporate insolvency process. And in their final contention they believe that CIRP legislation failed to have natural principle of natural justice.

11. Prof. M.P. Ram Mohan and Prof. Balagopal Gopalkrishnan[20] (2023) have written in their report about the effectiveness of corporate insolvency process as provided under the code. For the report they have done empirical research on the firms. This research focused on the firms before the implementation of IBC i.e. at the stage of not paying their dues and after the implementation of IBC i.e. after the initiation of resolution process. Through this they have tried to understand the real impact of the law. The research focused on various aspects of the firm in the market which they have achieved after the resolution process. They have also viewed the value of the firm after the resolution. According to their conclusion, IBC did bring the change for creditors as they are now incline towards investing but there is still some scope to improve. Suggestions has been listed to bridge this gap.

[19] Pryor, C. and Garg, R. (2020). Differential Treatment Among Creditors Under India's Insolvency and Bankruptcy Code, 2016: Issues and Solutions. *American Bankruptcy Law Journal* [online]. Vol. 94. Available from: https://scholarship.law.campbell.edu/cgi/viewcontent.cgi?params=/context/fac_sw/article/1260/&path_info=94AmBankrLJ123.pdf (Accessed 04 November 2024)

[20] Indian Institute of Management Ahmedabad 2023. *Report of Study on Effectiveness of the Resolution Process: Firm Outcomes in the Post-IBC Period* [online]. Available from: https://ibbi.gov.in/uploads/whatsnew/59f737b213b4700cc16428aefd62869a.pdf (accessed 02 November 2024)

3. RESEARCH PURPOSE AND OBJECTIVE

3.1 Purpose

Insolvency Law is just eight years old as it is implemented in 2016. Government tried to bridge the gap which was faced by the earlier laws and brought all insolvency laws under one umbrella. Researcher has opted for this area to articulate the effectiveness of the code as directly or indirectly it is impacting India's economy. Many literatures have indicated that high creditor's protection supports the development of credit market. Hence main focus of this study is towards the protection of creditors, role of adjudicating authority and other stakeholders through the legal framework of insolvency. Researcher will analyse as whether the protection given under the IBC to various stakeholders is sufficient or not. Further to provide this protection whether one of the main pillars of IBC i.e. the Adjudicating authority is justified in their position or not. Such extensive study with respect to stakeholders, NCLT and IBC has not been undertaken which makes this study more significant. Further, this assessment by reading case laws as decided by the NCLT will help to understand the loopholes in regard to delays and reasoning that need to be amended and will also help in proper implementation by learning from the decided cases.

3.2 Objectives

The objectives of the present study are as follows:

1. To evaluate the working of Adjudicating Authority as per the IBC with respect to corporate insolvency.
2. To study the execution of three core principles of IBC through judicial analysis.
3. To understand the impact of decided cases on various stakeholders associated with the IBC.
4. To suggest measure to strengthen the adjudicating authority under IBC for better implementation.
5. To give policy recommendations for better protection of stakeholder's rights.

4. RESEARCH METHODS

4.1 Hypothesis

This study will try to prove that even after strengthening the insolvency laws of India through the new consolidated code of insolvency, it failed to meet the real effectiveness and some measures are required for fair and equitable treatment to all stakeholders.

4.2 Research Questions

1. Whether the core principles of maximisation of the value of the debtor's assets, fair and equitable treatment to all stakeholders and resolution of the debtor in a time-bound manner has been implemented by adjudicating authority?
2. Whether the adjudicating authority is adhering to the obligations as provided by IBC?
3. Whether the rights of various stakeholders are protected by the adjudicating authority as listed under IBC?
4. Whether the Indian regulatory framework needs to extend further for the protection of stakeholders?
5. What are the further measures should be incorporated by Indian authority to enhance the effectiveness of the code regarding adjudicating authority?

4.3 Scope of Study

This study will solely focus on the corporate insolvency laws which are prevailing in India. Study will not cater the individual insolvency and bankruptcy laws. It focuses particularly on India's collective corporate insolvency procedures (those designed to mediate relations between a distressed debtor and all of its creditors). From last few years, the concept of debt restructuring is also formulated outside the court. Such informal techniques and practises are not been taken into the consideration for this research. Such developments can be considering as better alternatives to creditor's protection, but they cannot be considered in any detail here: this research focuses on India's formal corporate insolvency procedures, and a comprehensive analysis will be drawn with the legal framework and law decided by the adjudicating authority.

Further research will analyze the judgements of all NCLTs which are decided after the covid

i.e. 2021 till 2024. Research will be extensive for these three years and because of which any incidental judgements from the higher authorities like NCLAT and hon'ble Supreme Court will also be taken into consideration.

4.4 Research Methodology

The researcher would rely upon the doctrinal and analytical research based on the available primary and secondary sources. The primary sources include the Legislations, Acts, Commission Reports, and Cases, whereas the secondary sources include the documentary analysis of the articles, journals, newspapers articles, reports, e-books and other varied internet sources.

A uniform style of citation is followed throughout the study.

5. SCHEME OF CHAPTERIZATION

Chapter I: Introduction

This chapter will give the brief about the position before the enactment of IBC and problems which were faced by the stakeholders. Further it will deal with the incorporation of IBC. It will highlight the fundamental/core principles of IBC which are highlighted during the debate, by legislators and judiciary.

Chapter II: Rights of Stakeholders

The chapter is to lay down the importance of creditor protection for the economy of a country. It will lay down the study which shows the relevance of creditor's protection and other stakeholders and such protection through the law of insolvency. It will further explain the issues with earlier laws regarding their protection and how it is taking care by the new insolvency code.

Chapter III: Analysis of Judicial Proceedings: 2021 to 2024

The chapter would deal with the study of various cases laws decided by the Adjudicating Authority i.e. NCLT. The study will focus on various stances of deciding the case laws and critically analyse it from the point of view of stakeholders' rights protection, reasons for delay by the NCLT and use of power as bestowed on NCLT by IBC.

Chapter IV: Protection of Stakeholders

This chapter will be based on the study concluded in Chapter III. Based on the analysis, chapter will focus on the protection given to various stakeholders in the law and practical interpretations.

Chapter V: Power and Rights of Adjudicating Authority

The chapter would deal with the study of various cases laws decided by the Adjudicating Authority i.e. NCLT in chapter III. The study will focus on various stances of deciding the case laws and calculate the use and misuse of power given to the quasi body.

Chapter VI: Conclusion and Suggestions

The chapter would deal with appropriate suggestions and conclusions exclusively from the stance of the researcher in the light to answer the research questions and to prove the hypothesis.

6. REFERENCES

PRIMARY SOURCES

International Instrument

- UNCITRAL Legislative Guide on Insolvency Law 2005

Statutes

India

- Companies Act, 1956
- Companies Act, 2013
- Insolvency and Bankruptcy Code, 2016
- The Sick Industrial Companies Act, 1985
- The Sick Industrial Companies (Special Provision) Act 1985
- The Recovery of Debts Due to Banks and Financial Institutions Act, 1993
- The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002

Reports

- Bankruptcy Law Reforms Committee 2015. *Report of the Bankruptcy Law Reforms Committee Volume I: Rationale and Design*
- Eradi Committee 2000. *High Level Committee on Law Relating To Insolvency and Winding Up Of Companies*
- Goswami Committee 1993. *Report of the Committee on Industrial Sickness and Corporate Restructuring*
- Indian Institute of Management Ahmedabad 2023. *Report of Study on Effectiveness of the Resolution Process: Firm Outcomes in the Post-IBC Period*
- Labour Government 1982. *Report of the Review Committee on Insolvency Law And Practice*
- Ministry of Corporate Affairs 2015. *Report on Company Law*
- Reserve Bank of India 2001. *Report of the Advisory Group on Bankruptcy Laws*
- Standing Committee on Finance 2024. *Action taken by Government on 32nd Report: IBC Pitfalls and Solutions*

SECONDARY SOURCES

Books

- Batra, S. (2017) *Corporate Insolvency: Law and Practice.* Lucknow: EBC, 1st Edn.
- Finch, V. (2009) *Corporate Insolvency Law: Principles and Perspectives*. Cambridge: Cambridge University Press, 2nd Edn.
- Goode, R. (2011) *Principles of Corporate Insolvency Law*. London: Sweet & Maxwell, 4th Edn.
- Saeed, M. (2017) *Commentary on The Insolvency and Bankruptcy Code, 2016*. Toronto: Thomson Reuters, 2nd Edn.
- Sangeet, K. (2017) *Corporate Restructuring & Insolvency - CS Professional Programme*. Indore: Pooja Law Publishing House, 7th Edn.
- Tolmie, F. (2003) *Corporate and Personal Insolvency Law*. Cavendish Publisher, 2nd Edn.

Articles

- Ravi, A. (2015) *The Indian Insolvency Regime In Practice-An Analysis Of Insolvency And Debt Recovery Proceedings* Economic and Political Weekly 50
- Pandey, A. (2016) *The Indian Insolvency and Bankruptcy Bill: Sixty Years in The Making'* Indore Management Journal 8 (1)
- Ernst and Young 2016. *Interpreting the Code: Corporate Insolvency in India*
- Levine, R. (2004). Finance and Growth: Theory and Evidence. *Handbook of Economic Growth* Amsterdam: North-Holland Elsevier Publishers
- Jensen M. C. (1986). *Agency costs of free cash flow, corporate finance and takeovers* The American Economic Review 76 (2)
- Povel, P. (1999). *Optimal "soft" or "tough" bankruptcy procedures*. Journal of Law, Economics and Organization 15 (3)
- Baird, D. (1986). *The Uneasy Case for Corporate Reorganization*. Journal of Legal Studies 15
- Frost, C. (1995). *Bankruptcy Redistributive Policies and the Limits of the Judicial Process.* North California Law Review 74 (1)
- Froute, P. (2007). *Theoretical foundation for a debtor friendly bankruptcy law in favor of creditors.* European Journal of Law & Economics 24 (3)
- Davydenko, S. and Franks, J. (2006) *Do Bankruptcy Codes Matter? A Study of Defaults in France, Germany, and the U.K'* The Journal of Finance 63 (2)
- Levine, R. and Sara, Z. (1998). *Stock Markets, Banks, and Economic Growth*. American Economic Review 88 (3)

- Zwieten, K. (2015). *Corporate Rescue in India: The Influence of the Courts*. Journal of Corporate Law Studies 1
- Unny, M. (2011). *A study on the effectiveness of remedies available for banks in a debt recovery tribunal - A case study on Ernakulam DRT*. Centre for Public Policy Research Working Paper Series
- Kang, N. and Nayar, N. (2004). *The evolution of corporate bankruptcy law in India*. ICRA Bulletin: Money & Finance
- Sengupta, R. and Sharma, A. (2016). *Corporate Insolvency Resolution in India: Lessons from a cross-country comparison*. EWP 51 (15)
- Gada, B. (2017). *Failure of a Creditor to Submit a Claim in an Insolvency Process*. IndiaCorpLaw, 11 December 2017
- Saxena, A. and Sachthey, A. (2016). *The Insolvency and Bankruptcy Code, 2016 - A Fresh Start for India's Insolvency Regime*. Insolvency & Restructuring International
- 10 (2)
- Rao, P. (2016). *Critique of the Insolvency & Bankruptcy Code, 2016*. NLS Business Law Review 2
- Sharma, N. (2016). *Corporate Insolvency Resolution Process under the Insolvency and bankruptcy Code, 2016- An Analysis*. Chartered Secretary the Journal of Corporate Professional 46
- Levratto, N. (2013). *From Failure to Corporate Bankruptcy: A Review*. Journal of Innovation and Entrepreneurship 2
- Ernst & Young (2017). *Interpreting the Code: Corporate Insolvency in India*.
- IBBI (2020). *Understanding the IBC: Key Jurisprudence and Practical Considerations.* International Finance Corporation

Web-Sources

- www.scconline.com
- www.mondaq.com
- www.lexology.com
- www.ey.com
- www.insolindia.com
- springer.com
- www.icsi.edu
- heinonline.org
- indiacorplaw.in
- www.epw.in
- www.digitalrtimission.com

- www.researchgate.net
- www.worldbank.org
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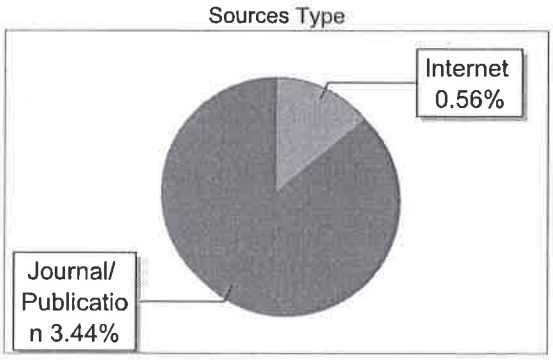

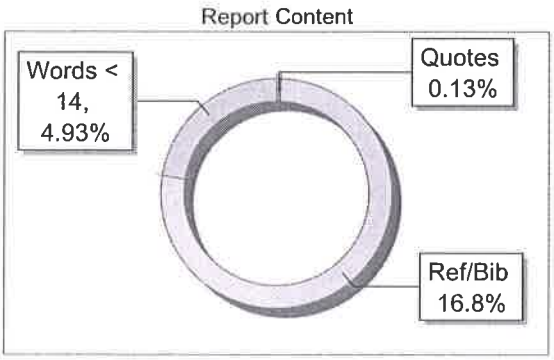

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INSOLVENCY AND BANKRUPTCY CODE, 2016: JUDICIAL ANALYSIS TO CHECK ADJUDICATING AUTHORITY ROLE IN CORPORATE INSOLVENCY PROCESS

SHORT SYNOPSIS

by

Surabhi Sharma
MRULWDN012K230015

Under the supervision of

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MANAV RACHNA UNIVERSITY

2024

ABSTRACT

Insolvency and Bankruptcy Code 2016 (IBC) brought a revolutionary change in Indian insolvency laws. This change was brought to limit the problem of delayed in recoveries and piles of NPAs. The outcomes of the IBC are remarkable and noteworthy. In the short span of time, IBC proved as the better faciliatory for creditors which in turn proof as a boon for the business. IBC brought a timeline for insolvency procedure for timely resolution which in result gives timely recovery.

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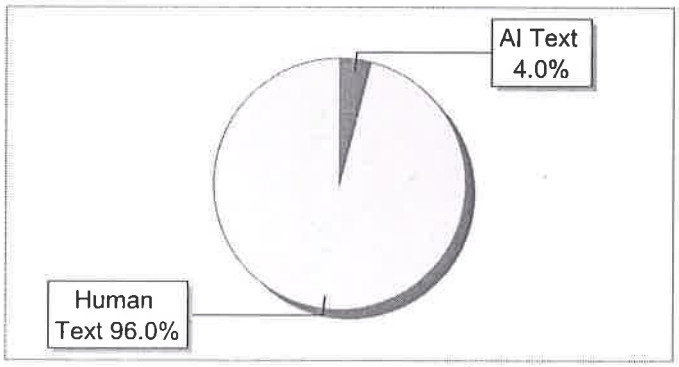

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